VII നിയമനിർമ്മാണകാര്യം

(1) 2000-ലെ കേരള ധനകാര്യബില്ലിന്റെ അവതരണം

ധനകാര്യമന്ത്രി (ശ്രീ. ടി. ശിവദാസമേനോൻ) : സർ, 2000-ത്തിലെ കേരള ധനകാര്യ ബിൽ ഞാൻ അവതരിപ്പിക്കുന്നു.†

(2) നിയമസഭാംഗങ്ങൾക്ക് പെൻഷൻ നൽകുന്നത് സംബന്ധിച്ച 2000-ലെ കേരള (ഭേദഗതി) ബിൽ

മുഖ്യമന്ത്രിക്കുവേണ്ടി ഭക്ഷ്യ-വിനോദസഞ്ചാര-നിയമവകുപ്പുമന്ത്രി (ശ്രീ. ഇ. ചന്ദ്രശേഖരൻ നായർ) : സർ, നിയമസഭാംഗങ്ങൾക്ക് പെൻഷൻ നൽകുന്നതു സംബന്ധിച്ച 2000-ലെ കേരള (ഭേദഗതി) ബിൽ അവതരിപ്പിക്കുന്നു.† പ്രസ്തുത ബിൽ ആഭ്യന്തരകാര്യങ്ങൾ സംബന്ധിച്ച X-ാം നമ്പർ സബ്ജക്ട് കമ്മിറ്റിയുടെ പരിഗണനയ്ക്ക് അയയ്ക്കണമെന്ന പ്രമേയവും ഞാൻ അവതരിപ്പിക്കുന്നു.

തദ്ദേശസ്വയംഭരണ വകുപ്പുമന്ത്രി (ശ്രീ. പാലോളി മുഹമ്മദ്കുട്ടി) : സർ, ഞാൻ പ്രമേയത്തെ പിൻതാങ്ങുന്നു.

മി. സ്പീക്കർ : പ്രമേയം അവതരിപ്പിച്ചിരിക്കുന്നു. പ്രമേയത്തിന് ഭേദഗതിയില്ല.

നിയമസഭാംഗങ്ങൾക്ക് പെൻഷൻ നൽകുന്നത് സംബന്ധിച്ച 2000-ലെ കേരള (ഭേദഗതി) ബിൽ ആഭ്യന്തര കാര്യങ്ങൾ സംബന്ധിച്ച X-ാം നമ്പർ സബ്ജറ്റ് കമ്മിറ്റിയുടെ പരിഗണനയ്ക്ക് അയയ്ക്കണമെന്ന പ്രമേയത്തെ....

അനുകൂലിക്കുന്നവർ.....

പ്രതികൂലിക്കുന്നവർ....

പ്രമേയം അംഗീകരിക്കപ്പെട്ടിരിക്കുന്നു.

ബിൽ സബ്ജക്ട് കമ്മിറ്റിയുടെ പരിഗണനയ്ക്ക് അയയ്ക്കുന്നു.

മി. സ്പീക്കർ : രണ്ടു ബില്ലുകൾ ഇന്ന് പരിഗണയ്ക്കെടുക്കുന്നു. അവ സബ്ജക്ട് കമ്മിറ്റി റിപ്പോർട്ടു ചെയ്ത പ്രകാരമുള്ള 2000-ലെ അധികാര വികേന്ദ്രീകരണ (ഭേദഗതി) ബില്ലും 2000-ലെ കേരള കമാന്റ് ഏരിയാ വികസന (ഭേദഗതി) ബില്ലും ആണ്. ബിസിനസ് അഡ്വൈസറി കമ്മിറ്റിയുടെ തീരുമാനം, രണ്ടു ബില്ലുകൾ ഒരുമിച്ച് ഇന്നും നാളെയുമായിട്ട് ചർച്ച ചെയ്യുക എന്നതാണ്. അതിനുവേണ്ടിയുള്ള സമയക്രമീകരണങ്ങളെല്ലാം വരുത്തിയിട്ടുണ്ട്. നാളെ വെള്ളിയാഴ്ചയാണെങ്കിലും നാളെ ചോദ്യോത്തരം ഉണ്ടായിരിക്കുന്നതല്ല. സഭ യോഗം ചേർന്നാൽ നേരിട്ട് ബില്ലുകളിലേയ്ക്ക് കടക്കുകയാണ്. സബ്മിഷനും ഉണ്ടായിരിക്കുന്നതല്ല. ഒൻപതു മണിക്ക് സഭ ആരംഭിച്ച്, 12.30

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†അനുബന്ധം XVI

†അനുബന്ധം XVII

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അനുബന്ധം XVI

Tenth Kerala Legislative Assembly

Bill No. 249

THE KERALA FINANCE BILL, 2000

LIBRARY ARCHIVES Kerala Legislative Assembly

Tenth Kerala Legislative Assembly

Bill No. 249

THE KERALA FINANCE BILL, 2000

A

BILL

to give effect to the Financial proposals of the Government of Kerala for the Financial year 2000-2001

Preamble.— WHEREAS it is expedient to give effect to the financial proposals of the Government of Kerala for the Financial Year 2000-2001;

BE it enacted in the Fifty-first year of the Republic of India as follows :-

1. Short title and commencement.— (1) This Act may be called the Kerala Finance Act, 2000.

(2) It shall come into force on the 1st day of April, 2000.

2. Amendment of Act 15 of 1963.— In the Kerala General Sales Tax Act, 1963 (15 of 1963),—

(1) in section 5,

(i) in clause (v) sub-section (1) after the third proviso, the following proviso shall be inserted, namely :—

"Provided also that where no tax is payable by a dealer effecting the first sale within the State, to a registered dealer for sale then the dealer effecting the subsequent sale within the State shall pay tax at the rates shown in column (4) of the Fifth Schedule and where there are no two points of sale in the State for any goods coming under the Fifth Schedule and the subsequent sale is to a person other than a registered dealer, or to a registered dealer other than for sale the rate specified in column (8) of that Schedule shall apply to such sales" ;

(ii) in sub-clause (a) of clause (i) of sub-section (2C), for the words and figures "serial number 97" the words and figures "serial number 108" shall be substituted ;

(iii) in sub-section (3),—

(a) in clause (i),—

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(i) The first proviso shall be omitted;

(ii) in the Second proviso, the word "further" shall be omitted ;

(b) In clause (ii),—

(i) for the words "second proviso" the word "proviso" shall be substituted ;

(ii) the words "or uses the same in the manufacture of any goods which are not liable to tax under this Act", shall be omitted.

(2) in sub-section (1) of section 7, —

(i) in clause (a), after the existing provisos the following proviso shall be inserted, namely :—

"Provided also that where such a dealer acquires any running business or a branch of a business with respect to gold, silver ornaments or wares during the year, the amount of compounding tax payable in respect of such business shall be calculated in accordance with the provisions of this clause as if it were an independent business, taking into account the turnover conceded in the return or accounts thereof for the previous year with respect to that business or on the basis of the quantum of compounded tax fixed for the previous year in accordance with the second and third provisos, as the case may be" ;

(ii) in clause (b),—

(a) in item (i) for the letters and figures, "Rs. 12,500", the letters and figures "Rs. 15,000", shall be substituted;

(b) in item (ii) for the letters and figures, "Rs. 25,000", the letters and figures "Rs. 30,000", shall be substituted;

(c) in item (iii) for the letters and figures, "Rs. 50,000", the letters and figures "Rs. 60,000", shall be substituted;

(3) in Section 14,—

(i) in sub-section (1),

(a) for the words, "one hundred" against item (a) the words "Two hundred and fifty" shall be substituted ;

(b) for the words, "Two hundred and fifty" against item (b) the words "Five hundred" shall be substituted.

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(ii) in sub-section (3), for the words "fifty rupees" the words "one hundred rupees" shall be substituted ;

(4) in Section 15,—

(i) in sub-section (4), for the words "fifty rupees" the words "one hundred rupees" shall be substituted ;

(ii) in sub-section (6), for the words "fifty rupees" the words "one hundred rupees" shall be substituted ;

(5) after section 17, the following section shall be inserted, namely :—

"17*A. Assessment or reassessment of certain cases treated as pending.*— Notwith standing anything contained in section 17 or section 18, or in any Judgment, decree or order of any Court, Tribunal or other authority any assessment or reassessment for any year shall be deemed to have been pending completion if, in the case of original assessment, return or turnover for the year or any period of the year relating to any period prior to 1st April, 1993, has been filed and/or a notice in the prescribed form had been served upon the dealer and the assessment in respect of which had not been completed and in the case of a reassessment, the order of the appellate or revisional authority giving rise to such reassessment had been received on or before 31st March, 1999 and such reassessment is pending." ;

(6) in section 40, for the words and figures, "by the Board of Revenue, under section 37", the words and figures, "under section 37 or section 59A" shall be substituted.

(7) after section 42, the following section shall be inserted, namely:—

"42 *A. Fee for interlocutory petitions.*— Every interlocutory application prescribed by the Government and filed before the authorities under this Act specified below, other than those filed by officers empowered by Government, shall be accompanied by the following fees, namely :—

(a)	Before the Appellate Assistant Commissioner or the Deputy Commissioner	: One hundred Rupees
(b)	Before the Commissioner or the Appellate Tribunal	: Two hundred and fifty rupees" ;

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(8) in section 45A, in sub- section 5(A) for the words "one hundred" and "two hundred and fifty" the words "two hundred" and "five hundred" shall respectively be substituted ;

(9) after section 45AA, the following section shall be inserted, namely:—

"45 *B. Penalty for transport of goods without records.*— (1) If any officer empowered under sub-section (1) of section 29 A finds on inspection of any vehicle or vessel that any transporting agency or contract carriage transporting any goods without the documents required under sub-section (2) of section 29, such officer may without prejudice to any action that may be taken under section 29A, impose by an order in writing on such transporting agency, or contract carriage, or the owner of the vehicle a penalty equal to twice the amount of the tax due on such goods subject to a minimum of five thousand rupees ;

(2) Where a transporting agency or contract carriage or the owner of the vehicle or vessel is subsequently guilty of the offence under sub-section (1) for more than one occasion, the officer refered to in that sub-section may, in addition to the penalty that may be imposed under the said sub- section, by an order in writing detain the vehicle or vessel for a period of 30 days from the date of inspection of the vehicle or vessel, whether the vehicle or vessel used for the Commission of the offence on subsequent occasion is the same or not.

(3) The vehicle or vessel detained under sub-section (2) shall be kept in safe custody by the officer detaining the vehicle in a place notified by the Government.

(4) No, order under sub-section (1) or sub-section (2) shall be passed unless such person affected by such order shall be given an opportunity of being heard.

(5) The vehicle or vessel detained under this section shall after the expiry of thirty days from the date of detention release to the person from whom it was detained.

Explanation.— Transporting agency for the purposes of the section shall include parcel agency."

(10) for section 59 A, the following section shall be substituted, namely :—

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"59 *A. Power of Commissioner of Commercial Taxes to issue clarification.*— (1) If any dispute arises, otherwise than in a proceeding before any appellate or revisional authority or in any court or tribunal, as to whether, for the purpose of this Act,—

(a) any person is a dealer ; or

(b) any transaction is a sale ; or

(c) any particular dealer is required to be registered ; or

(d) any tax is payable in respect of any sale or purchase, or if tax is payable, the point and the rate thereof ; or

(e) any activity carried out in any goods amounts to or results in the manufacture of goods ;

Such dispute shall be decided by the Commissioner of Commercial Taxes on application by a dealer or any other person.

(2) The Commissioner of Commercial Taxes shall decide the question after giving the parties to the dispute a reasonable opportunity to put forward their case and produce evidence and after considering such evidence and hearing the parties.

(3) Every application by a dealer or any other person under sub-section (1) shall be in such form as may be prescribed and shall be accompanied by a fee of five hundred rupees.

(4) Where any question arises from any order already passed or any proceedings recorded under this Act, or any earlier law no such question shall be entertained for determination under sub-section (1)

(5) Every order issued by the Commissioner of Commercial Taxes under sub-section (1) shall, subject to the provisions of section 40, be final and binding on the applicant, and all authorities subordinate to the commissioner including an Appellate Assistant Commissioner."

Provided that the decision of the Commissioner of Commercial Taxes shall not affect the liabilities of any person under this Act as respects any sale or purchase effected prior to such determination."

(11) in the First Schedule,—

(i) in the entry against serial number 13, in column (4), for the figures "12" the figures "15" shall be substituted.

(ii) the Explanation to serial number 25 shall be omitted ;

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(iii) in the entry against serial number 27, in column (4), for figures "12", the figures "15" shall be substituted ;

(iv) in the entry against serial number 31, in column (4), for the figure "8", the figure "4" shall be substituted ;

(v) in the entry against serial number 37,—

(a) in column (2) for the words "Cloves, Nutmeg and Mace" the words "Cloves and Nutmeg" shall be substituted ;

(b) in column (4) for the figure "8" in both the places, the figure "4" shall be substituted ;

(vi) for the entries against serial number 54, in columns (2), (3) and (4) the following entries shall respectively be substituted, namely:—

"(i)	Electrical goods, instruments, apparatus, appliance, hotplates, lighting bulbs, electrical earthenware, porcelain and all other accessories and component parts either sold as a whole or in parts (other than those specifically mentioned in this Schedule)	do.	8
(ii)	Electrical applicance such as fans, grinders, mixers, cooking ranges, water heaters.	do.	12
(iii)	Electrical wiring cables	do.	12"

(vii) in the entries against serial number 78, in column (4), for the figure "8", in both the places the figure "4" shall be substituted ;

(viii) after serial number 83 and the entries against it, the following serial number and entries shall respectively be inserted, namely :—

"83 A. Mace

(a)	Purchased within the state	At the point of first purchase in the State by a dealer who is liable to tax under Section 5	8

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(b)	Brought from outside the State	At the point of first sale in the State by a dealer who is liable to tax under section 5	8";

(ix) in the entries against serial number 103,—

(a) in column (2) for the words "primers, thinners and paint brushes" the words "primers and thinners" shall be substituted;

(b) in column (4) for the figures "12" the figures "15" shall be substituted.

(x) after serial number 103 and the entries against it, the following serial number and entries shall respectively be inserted, namely :—

"103A. Paint brushes	do.	12"

(xi) in the entries against serial number 135, in column (2), the words "bulldozers", and "cranes and other earth moving machinery" shall be omitted ;

(xii) in serial number 150, —

(a) the entry in column (2), shall be numbered as item (i) of that entry and in the entry so numbered after the words "manufactured tea", the words, figures and brackets "other than that falling under item (ii)" shall be inserted ;

(b) after item (i) so numbered and the entries against it in columns (2), (3) and (4) and the explanation thereunder, the following item and entries shall respectively be inserted, namely : —

(ii)	Tea sold under brand name registered under the Trade and Merchandise Marks Act, 1958	do.	8
	Explanation.— Where a tax has been levied and collected on unbranded tea in the State, the tax payable on branded tea under this item shall be reduced by the amount of tax so paid"		

(xiii) for the entries against serial number 157 in columns (2), (3) and (4), the following entries shall be substituted, namely : —

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"(i)	Tractor and power tiller	do.	4
(ii)	Truck mounted articulated cranes, pick and carry cranes' bulldozers, excavators and other earth moving machinery, vibratory compactors, pavers, pneumatic tyre rollers, their components, spare parts and accessories.	do.	4"

(xiv) in the entry against serial number 159 in column (4), for the figure "8" the figure "4" shall be substituted ;

(12) in the THIRD SCHEDULE, for the entry against serial number 38, the following entry shall be substituted, namely :—

"Meat other than poultry meat and those coming under the First Schedule." ;

(13) in the FIFTH SCHEDULE,—

(i) in the entries against serial number 3 in columns (4), (6) and (8), for the figures "10", "2" and "12", the figures "12", "4" and "16" shall respectively be substituted;

(ii) in the entries against serial number 6 in columns (4), (6) and (8), for the figures "10", "2" and "12", the figures "12", "4" and "16" shall respectively be substituted;

(iii) in the entries against serial number 7 in columns (4), (6) and (8), for the figures "10", "2" and "12", the figures "12", "4" and "16" shall respectively be substituted;

(iv) in the entries against serial number 10 in columns (4), (6) and (8), for the figures "10", "2" and "12", the figures "12", "4" and "16" shall respectively be substituted;

3. *Amendment of Act 32 of 1976.*—In the Kerala Tax on Luxuries Act, 1976 (32 of 1976), after section 8, the following section shall be inserted, namely :—

"9. *Fee for interlocutory applications.*— Every interlocutory applications prescribed by the Government and filed before the authorities under this Act specified below, other than those filed by Officers empowered by Government, shall be accompanied by the following fees, namely :—

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(a) Before the Appellate Authority : One hundred rupees

(b) Before the Revisional Authority : Two hundred and fifty rupees".

4. *Amendment of Act 15 of 1991.*— In the Kerala Agricultural Income Tax Act, 1991 (Act 15 of 1991),—

(1) in the proviso to sub-section (1) of section 3, for the words "three hectares", the words "five hectares" shall be substituted ;

(2) in sub-section (3) of section 9, the following explanation shall be inserted, namely :—

Explanation.— Where a deposit under this sub-section is made on or before the due date of filing of return for the year to which the deduction relates, the deposit shall be deemed to have been made during the previous year."

(3) in the TABLE under sub-section (1) of section 13,—

(i) in column (2) of the headings for the words "first three hectares" the words, first five hectares" shall be substituted;

(ii) in column (3), of the headings for the words "on the next five hectares", the words "on the next three hectares" shall be substituted ;

(4) to section 39, the following explanation shall be inserted, namely :—

"*Explanation.*— The time - limit of two years mentioned in sub-section (6) shall apply only in the case of assessee who has filed return and it shall run from the date of receipt of the return by the Agricultural Income Tax Officer. In the case of those who are liable to submit return under sub-section (1) of section 35, but has failed to furnish such return, the time-limit prescribed under section 41 shall apply".

(5) after section 78 the following section shall be inserted, namely :—

"78A. *Fees for interlocutory applications.*—Every interlocutory applications prescribed by the Government and filed before the authorities under this Act, specified below, other than those filed by officers empowered by Government, shall be accompanied by the following fees, namely :—

(a) Before the Appellate Assistant Commissioner : One hundred rupees

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(b) Before the Deputy Commissioner : One hundred rupees

(c) Before the Commissioner or Appellate Tribunal : Two hundred and fifty rupees".

5. *Amendment of Act 15 of 1994.*— In the Kerala Tax on Entry of Goods into Local Areas Act, 1994 (15 of 1994)

(1) after section 9, the following section shall be inserted, namely :—

"9A. *Inspection of Vehicle.*— (1) Subject to the provisions contained in section 3 of the Act, any officer, not below the rank of an Assistant Commissioner of the Commercial Taxes Department, authorised in this behalf by the Government, may intercept any motor vehicle, and verify the documents relating to the vehicle to satisfy himself that there is no evasion of tax due under this Act.

(2) The driver of the vehicle, when so required by the officer authorised under sub-section (1) shall stop the vehicle at any place for the purpose of enabling such officers to verify the documents.

(3) If on verification of such documents, the authorised officer is satisfied that there is an attempt to evade the tax due under this Act, such officer may require the owner of the vehicle either directly or through the driver of the vehicle to adduce such other evidence to show that there is no attempt to evade the tax due under this Act.

(4) If on consideration of such evidence the authorised officer is satisfied that tax under this Act is payable on such motor vehicle, he shall by an order in writing direct the owner of the vehicle to pay the tax due on the motor vehicle :

Provided that no such order shall be passed unless the owner of the vehicle or any person duly authorised by him has been afforded a reasonable opportunity of being heard.

"*Explanation.*— The expression 'owner' for the purpose of this section shall be the owner as defined in clause (30) of section 2 of the Motor Vehicles Act, 1988 (Central Act 5 of 1988).

(2) in section 13, in sub-section (3) after the words "appealed against by the assessee" the words "accompanied by a fee of rupees two hundred" shall be inserted ;

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(3) for section 14, the following sections shall be substituted, namely :—

"14. *Revision by the Commissioner of Commercial Taxes suo motu.*— (1) The Commissioner of Commercial Taxes may suo motu call for and examine the records of the proceedings or any order made by any authority subordinate to him which in his opinion is prejudicial to revenue collection and pass such orders thereon as he thinks just and proper.

(2) the Commissioner shall not pass any order under sub-section (1) if,—

(a) the time for filing appeal against the order of the assessing authority has not expired,

(b) on any point which has been made the subject of an appeal before the appellate authority or the Deputy Commissioner of Sales Tax,

(c) more than four years have elapsed after the passing of the order referred to therein.

(3) No order under this Section adversely affecting any person shall be passed under this section unless that person has been afforded a reasonable opportunity of being heard.

14A. *Powers of revision of the Commissioner of Commercial Taxes on application.*—

(1) Any person aggrieved by an order passed by the Deputy Commissioner of Sales Tax under sub-section (4) of section 13 may, within a period of 30 days from the date of receipt of the order, file an application for revision of such order to the Commissioner of Commercial Taxes :

Provided that, the Commissioner may admit an application presented after the expiry of the said period if he is satisfied that the applicant had sufficient cause for not presenting the application within the said period.

(2) Such application for revision shall be in the prescribed form and shall be verified in the prescribed manner and be accompanied by a fee of rupees five hundred.

(3) On admitting an application for revision, the Commissioner may call for and examine the records of the order against which the application has been preferred and may make or cause an enquiry to be made and subject to the provisions of this Act, pass such order thereon as he thinks just and proper.

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(4) Every application shall be accompanied by the tax, fee or other amount payable in accordance with the order against which the application has been preferred :

Provided that the Commissioner may in his discretion, give such directions as he thinks fit in regard to the payment of such tax, fee or other amount if the applicant furnishes sufficient security to his satisfaction in such manner as may be prescribed.

(5) No order under this section adversely affecting any person shall be passed unless that person has been afforded a reasonable opportunity of being heard.

14B. *Fee for interlocutory applications.*—Every interlocutory application prescribed by the Government and filed before the authorities under this Act specified below, other than those filed by officers empowered by Government, shall be accompanied by the following fees, namely :—

(a) Before the Appellate Authority	: One hundred rupees
(b) Before the Deputy Commissioner	: One hundred rupees
(c) Before the Commissioner of Commercial Taxes	: Two hundred and fifty rupees".

(4) In the Schedule, after serial number 21 and the entries against it the following serial numbers and entries shall respectively be inserted, namely :—

"22. Chassis of motor vehicle

23. Body built on chassis of motor vehicles

24. Furniture—whether assembled or unassembled

25. Paints of all description".

LIBRARY ARCHIVES Kerala Legislative Assembly

DECLARATION UNDER THE KERALA PROVISIONAL COLLECTION OF REVENUES ACT, 1985

(10 of 1985)

It is hereby declared that it is expedient in the public interest that all the provisions of this Bill shall have effect from the 1st day of April, 2000 under the Kerala Provisional Collection of Revenues Act, 1985 (10 of 1985)

STATEMENT OF OBJECTS AND REASONS

The bill seeks to amend the following enactments to give effect to certain financial proposals of the Government for the financial year 2000-2001, namely ;—

1. The Kerala General Sales Tax Act, 1963 (15 of 1963)

2. The Kerala Tax on Luxuries Act, 1976 (32 of 1976)

3. The Kerala Agricultural Income Tax Act, 1991 (15 of 1991)

4. The Kerala Tax on Entry of Goods into Local Areas Act, 1994 (15 of 1994)

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 42 A of the Kerala General Sales Tax Act, 1963 inserted by sub clause (7) of clause 2 of the Bill seeks to empower the Government to prescribe the nature of interlocutory applications which shall be accompanied by the fees specified therein.

2. Sub-section (3) of Section 45B of the Kerala General Sales Tax Act, inserted by sub-clause (9) of clause 2 of the Bill seeks to empower the Government to notify the place where the vehicle or vessel detained under sub-section (2) shall be kept in safe custody by the officer detaining the vehicle.

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3. Sub-section (3) of Section 59A of the Kerala General Sales Tax Act, substituted by sub-clause (10) of clause 2 of the Bill seeks to empower the Government to prescribe the application form for the use of a dealer or any other person for obtaining clarification from the Commissioner of Commercial Taxes.

4. Section 9 of the Kerala Tax on Luxuries Act, 1976 inserted by clause 3 of the Bill seeks to empower the Government to prescribe the nature of interlocutory applications which shall be accompanied by the fees specified therein.

5. Section 78A of the Kerala Agricultural Income Tax Act, 1991 inserted by sub-clause (5) of clause 4 of the Bill seeks to empower the Government to prescribe the nature of interlocutory applications which shall be accompanied by the fees specified therein.

6. Section 9A of the Kerala Tax on Entry of Goods into Local Areas Act, 1994 inserted by sub-clause (1) of clause 5 of the Bill seeks to empower the Government to authorise any officer not below the rank of an Assistant Commissioner of Commercial Taxes Department to intercept any motor Vehicle, and verify the documents relating to the vehicle to satisfy himself that there is no evasion of tax due under the Act.

7. Sub-section (2) of section 14A of the Kerala Tax on Entry of Goods into Local Areas act, substituted by sub-clause (3) of clause 5 of the Bill seeks to empower the Government to prescribe application forms and the manner of, verification for revising of the order issued by the Deputy Commissioner of Sales Tax under sub-section (4) of section 13.

8. Section 14B of the Kerala Tax on Entry of Goods into Local Areas Act substituted by sub-clause (3) of clause 5 of the Bill seeks to empower the Government to prescribe the nature of interlocutory application which shall be accompanied by the fees specified therein.

The above are matters of an administrative or routine nature or matters of detail. The delegation of legislative power is therefore of a normal character.

T. SIVADASA MENON

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EXTRACT FROM THE KERALA GENERAL SALES TAX ACT, 1963

(15 of 1963)

** ** ** ** ** ** **

5. *Levy of tax on sale or purchase of goods.*— (1) Every dealer (other than a casual trader or agent of a non-resident dealer) whose total turnover for the year is not less than two lakh rupees and every casual trader or agent of a non-resident dealer, whatever be his total turnover for the year, shall pay tax on his taxable turnover for that year,—

(i) in the case of goods specified in the First or Second Schedule at the rates and only at the points specified against such goods in the said Schedules ;

(ii) (* * *)

(iii) in the case of transfer of the right to use any goods for any purpose (whether or not for a specified period) at the rate of eight per cent at all points of such transfer ;

(iv) (a) in the case of transfer of goods involved in the execution of works contract where transfer is in the form of goods at the rates and at the points specified against such goods in the First, Second or Fifth Schedule ;

(b) in the case of transfer of goods involved in the execution of works contract (where the transfer is not in the form of goods but in some other form) specified in the Fourth Schedule at the rates specified against such contract in the said Schedule :

Provided that not tax is payable in respect of the turnover of the goods transfer of which was effected without any processing or manufacture on which tax was levied under clause (1) on any earlier sale in the State or which are exempted from tax and for goods coming under the Fifth Schedule no tax specified for the first sale is payable on which tax was levied in any earlier sale in the State:

Provided further that tax payable in respect of turnover of goods coming under the second Schedule the transfer of which was effected without any processing of manufacture shall not exceed the rate and only at the points specified against such goods in the said Schedule.

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(v) in the case of goods specified in the Fifth Schedule at the rates and at the two points specified against such goods in the said Schedule :

Provided that where there are no two points of sale in the State for any goods coming under the Fifth Schedule and the first sale is to a person other than a registered dealer, the rate specified in column (8) of that Schedule shall apply to such sales :

Provided further that registered dealer effecting the last sale within the State to a person other than a registered dealer, shall pay tax at the rates shown in column (6) or in column (8) as the case may be, of the Fifth Schedule irrespective of its turnover :

Provided also that where a registered dealer, after purchasing the goods on payment of the Tax mentioned in column (4) of the Fifth Schedule,—

(a) uses or disposes of such goods in any manner other than by way of sale within the State ; or

(b) despatches them to any place outside the State except as a direct result of sale in the course of inter-state trade or commerce;

(c) Shall pay tax at the rate shown in column (6) of the said Schedule on the purchase turnover of the goods.

(vi) (* * *)

Provided that no tax shall be payable on that part of the turnover on which tax has already been levied on the preceeding sales in the State :

Provided that where a tax has been levied in this sub-section or under section 5A, in respect of the sale or purchase of goods specified in the Second Schedule and such goods are sold in the course of inter-state trade or commerce, the tax so levied shall be refunded to such person in such manner and subject to such conditions as may be prescribed.

(2) Notwithstanding anything contained in this Act in respect of manufactured goods, other than tea which are sold under the trade mark or brand name, the sale by the brand name holder or the trade mark holder within the State shall be the first sale for the purposes of this Act.

(2A) Where a dealer liable to tax under sub-section (1) sells any goods to a trade mark or brand name holder for sale under a trade mark or brand name, no such dealer shall be liable to pay tax under the said sub-section, if he produced before the assessing authority a declaration in the prescribed form from that trade mark or brand name holder.

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(2B) Where a trade mark or brand name holder consumes the goods purchased by him under sub-section (2A), in the manufacture of other goods or uses or disposes of such goods in any manner otherwise than by way of sale within the state or despatches such goods to any palace outside the State, otherwise than by way of inter-state sale, such trade mark or brand name holder shall be liable to pay tax on the turnover relating to such purchase for the year irrespective of the quantum of his total turnover.

(2C) (i) Notwithstanding anything contained in this Act or the rules made thereunder every dealer shall pay turnover tax on the turnover of goods as specified thereunder, namely :—

(a) by an oil company defined in the Explanation under serial No. 97 of the First Schedule to this Act whose total turnover in a year exceeds rupees fifty lakhs at the rate of three percent on the turnover from the first day of April, 1991 till 31st day of July, 1991 and thereafter at the rate of four percent on the turnover.

(b) by any dealer in foreign liquor as specified in entries against serial number 60 of the First Schedule at the rate of 5 percent on the turnover at all points.

(c) to (g) (***) ** ** **

Provided that not tax under this sub-section shall be payable on that part of such turnover.

(i) *****

(ii) Which relates to :

(a) sale or purchase of goods in the course of inter-state trade or commerce ;

(b) sale or purchase of goods in course of export out of the territory of India or sale or purchase in the course of import into the territory of India ;

(c) sale or purchase exempted from tax by notification under section 10 ;

(d) all amount falling under the head 'freight', when specified and charged for by the dealer separately without including such amounts in the price of the goods sold;

(e) all amounts falling under the head "charges for delivery" when specified and charged for by the dealer separately without including such amounts in the price of the goods sold ;

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(f) all amounts allowed as discount, provided that such discount is allowed in accordance with the regular practice of the dealer or is in accordance with the terms of a contract or agreement entered into in a particular case and provided also that the purchaser has paid only the sum originally charged less discount ;

(g) all amounts allowed to purchasers in respect of goods returned by them to the dealer when the goods are taxable on sales provided that the goods were returned within a period of three months from the date of delivery of the goods and the accounts show the date on which the goods were returned and the date on which and the amount for which refund was made; and

(h) all amounts received from the sellers in respect of goods returned to them by the dealer, when the goods are taxable on the purchase value provided that the goods were returned within a period of three months from the goods were returned and the date on which and the amount for which refund was received :

Provided further that save as otherwise provided in this sub-section, no other deduction shall be made from the total turnover of a dealer for the purposes of this sub-section.

(ii) The provisions of this Act and the rules made thereunder shall, so far as may be, apply in relation to the assessment, collection or refund of the turnover tax under this sub-section including the provisions relating to appeals and penalties, as they apply in relation to the assessment, collection or refund of tax under the other provisions of this Act.

(iii) Notwithstanding anything contained in sub-section (1) of section 22, no dealer shall collect from his purchaser the turnover tax payable by him under this sub-section.

(3)(i) Notwithstanding anything contained in sub-section (1), the tax, payable by a dealer in respect of any sale of industrial raw materials component parts, containers or packing materials which are liable to tax at a rate higher than three per cent when sold to any industrial unit for use in the production of finished products inside the State for sale or for packing of such finished products inside the State for sale, as the case may be, shall be at the rate of three per cent on the taxable turnover relating to such industrial raw materials, component parts, containers, or packing materials, as the case may be";

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Provided that this clause shall not apply where the sale such finished products is not liable to tax either under this Act, or under the Central Sales Tax Act, 1956 (Central Act 74 of 1956) or when such finished products are exported out of the territory of India :

Provided further that the provisions of this clause shall not apply to any sale unless the dealer selling the goods furnishes to the assessing authority in the prescribed manner a declaration duly filled in and signed by the dealer to whom the goods are sold containing the prescribed particulars in the prescribed form.

(ii) Where any dealer, after purchasing any goods by furnishing a declaration as mentioned in the second proviso to clause (i), fails to make use of the same or uses the same in the manufacture of any goods which are not liable to tax under this Act, he shall be liable to pay the tax that would have been payable by him, had the declaration not been furnished, less the tax, if any, paid by him and the same shall be levied and collected as if it is a tax due from him.

** ** ** **

7. Payment of tax at compounded rates.— (1) Notwithstanding anything contained in sub-section (1) of section 5.

(a) any dealer in gold or silver ornaments or wares may, at his option, instead of paying tax in accordance with the provisions of that subsection, pay tax at one hundred and twenty per cent of the tax payable by him as conceded in the return or accounts for the immediate preceding year and where any such dealer opens new branches the compounded tax payable by him in respect of each new branch for the first year shall be twenty-five per cent of the compounded tax for the principal place of business :

Explanation.— For the purpose of this clause "tax payable as conceded in the return or account for the immediate preceding year" means tax payable on the sales turnover under sub-section (1) of section 5 and the tax payable on the purchase turnover under section 5A :

Provided that where during the preceding year, the dealer had not transacted business for any period the tax payable for the whole year shall be calculated proportionately on the basis of the tax payable for the period during which such dealer had transacted business :

Provided further that where a dealer had paid tax under this

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sub-section for the preceding year, the compounded tax to be paid by him for the succeeding year shall be one hundred and twenty per cent of such tax paid or one hundred and twenty per cent of the tax payable as per the return or accounts of the dealer for the preceding year whichever is higher :

Provided also that where such dealer has paid compounded tax consecutively for a period of three years the compounded tax payable for the succeeding year shall be one hundred and fifteen per cent, and in the case of a dealer who has paid compounded tax consecutively for a period of five years the compounded tax payable for the succeeding year shall be one hundred and ten per cent of such compounded tax paid or payable by him for the immediate preceding year.

(b) any mechanical crushing unit producing granite metals may, at its option, instead of paying tax in accordance with the provisions of that sub-section, pay tax at the following rates, namely :—

(i) for each crushing machine of size not exceeding 30.48 cm x 22.86 cm	Rs. 12,500 per annum
(ii) for each crushing machine of size not exceeding 30.48 cm x 22.86 cm. but not exceeding 40.64 cm x 22.86 cm	Rs. 25,000 per annum
(iii) for each crushing machine of size exceeding 40.64 cm x 22.86 cm	Rs. 50,000 per annum

14. *Procedure for registration.*— (1) An application for registration shall be made to such authority, in such manner and within such period as may be prescribed and shall be accompanied by a fee as specified below :

(a) where the total turnover is less than three lakh rupees	One hundred rupees
(b) where the total turnover is three lakh rupees and above but is less than ten lakh rupees	Two hundred and fifty rupees
(c) Where the total turnover is ten lakhs rupees and above but less than fifty lakh rupees	Seven hundred and fifty rupees plus twenty five rupees for each lakh or part thereof above ten lakh rupees

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(d) Where the total turnover is fifty lakh and above	One thousand seven hundred and fifty rupees plus fifty rupees for each lakh or part thereof above fifty lakh rupees however that the total registration fee payable shall not exceed twenty thousand rupees.

Provided that where the dealer is an authorised retail or wholesale distributor of rationed articles (rice, wheat, sugar and kerosene) under the Kerala Rationing Order, 1966 or palmolien his total turnover for the purpose of this sub-section shall not include the turnover in respect of such goods.

Provided further that in the case of a casual trader, the minimum registration fee to be paid shall be one thousand rupees.

(1A) Notwithstanding anything contained in sub-section (1) every dealer registered under sub-section (3) of section 7 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) shall in addition to the fee specified in sub-section (1) pay a fee of rupees one hundred.

(2) If the prescribed authority after making such enquiries as it may consider necessary is satisfied,—

(a) that the application is in order;

(b) that the particulars furnished therein are correct; and

(c) that the security, if any, required to be furnished under sub-section (2A) has been furnished, it shall register the applicant and issue to him a certificate in the prescribed form.

(2 A) Where it appears necessary to the prescribed authority so to do for the proper realisation of the tax payable under this Act, it may, by an order in writing and for reasons to be recorded therein, impose as a condition for the issue of the registration certificate a requirement that the dealer shall furnish in the prescribed manner and within such time as may be specified in the order such security as may be so specified.

(3) Where a dealer has more than one place of business, the registration certificate shall cover all such place of business. The assessing authority shall issue copies of the registration certificate to the dealer for exhibition at each of his places of business and the dealer shall pay a fee of fifty rupees for each copy.

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15. *Issue of permits.*— (1) Every registered dealer who transacts business at places other than his registered place or places of business or employs a travelling salesman or representative to transact business as aforesaid, shall obtain a permit issued under this Act authorising himself or [1](permitting him to authorise) the travelling salesman or representative so to do.

(2) The entire turnover of business carried on under the permit shall be included and accounted for by the registered dealer in his accounts and returns and shall be dealt with as if it were the turnover of business done by the registered dealer himself at the registered place of business.

(3) Every permit holder shall carry the permit with him and shall produce it on demand by any officer of the Sales Tax Department empowered by the Government in this behalf. He shall maintain and produce on demand to any such officer a true and correct account of all the transactions carried on under the permit and also a stock book showing the quantities of goods held by him, the quantities disposed of from day to day by sale or otherwise and the balance on hand at the end of each day.

(4) An application for the permit referred to in sub-section (1) shall be made to such authority, in such manner and within such period as may be prescribed and shall be accompanied by a fee of fifty rupees.

Explanation :— A dealer may make a single application for all the permits required by him together with the fee for each permit applied for.

(5) If the prescribed authority is satisfied that the application is in order, and that the particulars furnished therein are correct, it shall issue the permit in the prescribed form.

(6) A permit issued under sub-section (5) shall be valid for a year and shall be renewed from year to year on receipt of an application from the registered dealer accompanied by a fee of fifty rupees.

(7) The prescribed authority shall cancel a permit.

(a) on requisition made in writing by the registered dealer, or

(b) on the cancellation of the certificate of registration.

(8) The prescribed authority may cancel a permit if the permit holder has contravened any of the terms or conditions of the permit or any of the provisions of this Act or the rules made thereunder.

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(9) No permit shall be cancelled under sub-section (8) unless the person affected has been given a reasonable opportunity of being heard.

17. *Procedure to be followed by the assessing authority.*— (1) Every registered dealer and every dealer liable to make out registration under this Act shall submit such return or returns relating to his turnover in such manner and within such period as may be prescribed.

(2) If the assessing authority is satisfied that any return submitted under sub-section (1) is correct and complete, it shall assess the dealer on the basis thereof.

(3) If no return is submitted by the dealer under sub-section (1) within the prescribed period or if the return submitted by him appears to the assessing authority to be incorrect or incomplete, the assessing authority shall, after making such enquiry, as it may consider necessary and after taking into account all relevant materials gathered by it assess the dealer to the best of its judgment:

Provided that before taking action under this sub-section the dealer shall be given a reasonable opportunity of being heard, and, where a return has been submitted to prove the correctness or completeness of such return.

(4) Notwithstanding anything to the contrary contained in sub-section (3) and 4(A) the assessing authority shall accept the return for any year the assessment relating to which has not been completed alongwith the statements prescribed which are in accordance with the provisions of the Act and Rules made thereunder, submitted by any dealer, whose total turnover specified in the return submitted by him for the year for which the assessment relates does not exceed rupees fifteen lakhs or by a dealer having dealing only in goods which are completely exempted from tax or a dealer having dealings only in, non-taxable points of goods coming in the First, Second or Fifth Schedules or by a dealer the tax payable by him does not exceed rupees five thousand for the year irrespective of any limit in turnover and assess the dealer on the basis of such return:

Provided that every year out of the assessment relating to the preceding year to be completed under this sub-section the Board of Revenue may select twenty per cent by random sampling for detailed scrutiny of the accounts and other records and if the dealer is found to have not accounted any purchases or sales or otherwise attempted to evade payment of tax, the previous five years assessments may be re-opened and escaped turnover shall be assessed or levy of tax be made after following the procedure prescribed in sub-section (3) of section 17 and the limitation prescribed under any of the provisions shall not apply to such cases:

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Provided further that where the return filed by any dealer falling under any of the categories referred to in this sub-section is not accompanied by statement required by this Act or the rules made thereunder in support of any claim or exemption from, or reduction, in, the rate of tax, the assessing authority shall, after due notice to the dealer, complete the assessment on the basis of the turnover conceded in the return, disallowing the claim for such exemption or reduction to the extent to which it is not proved ;

(4A) Notwithstanding anything to the contrary contained in sub-section (3) in the case of a co-operative society registered or deemed to be registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969) the assessing authority shall make the final assessment for the year 1980-81 and for every subsequent year on the basis of the return furnished by that society, if such return is duly supported by the audit report of such society issued by the Registrar of Co-operative Societies ;

Provided that the provisions of this sub-section shall not apply if the audit report of the co-operative society issued by the Registrar of Co-operative Societies is not furnished within a period of three years from the expiry of the year to which it relates:

Provided further that the provisions of this sub-section shall not apply in the case of a co-operative society which has been punished or on which the penalty has been imposed or from which a sum of money has been under section 47 for evasion of tax for the year for which the return has been furnished.

"(4B) Notwithstanding anything to the contrary contained in section 5 or in the foregoing provisions of this section, in respect of works contracts the assessing authority may, on the application of the works contactor, complete the assessment in relation to such works contract for the period prior to 1st day of April, 1999, in one block, and the provisions of this Act and the rules made thereunder other than those relating to rate of tax, shall apply to such assessment as if it were an assessment for the year 1998-99. The rate of tax applicable to each works contract shall be the lowest rate applicable to such ty pe of works contract during any year of the block period in respect of such works contract :

Provided that no refund of any tax already paid shall be allowed";

(5) For the removal of doubt it is hereby clarified that nothing contained in sub-section (4) shall be deemed to exclude the operation of Section 19, Section 19A, Section 19 B, Section 19 C or Section 27 in the case of a dealer assessed under that sub-section :

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(5A) Where on re-opening of an assessment completed under sub-section (4), in respect of any dealer, it is found that the amount of tax, if any, paid by such dealer is less than the amount of tax which he is liable to pay on such fresh assessment, the assessing authority shall direct such dealer to pay the difference between the amount of tax already paid by him and that arrived at on such fresh assessment, together with thrice the amount of such difference as penalty;

(6) Any assessment within this section shall be completed within a period of four years from the expiry of the year to which the assessment relates:

Provided that this time limit shall not apply in the case of dealers who, being liable to get themselves registered as provided for under the Act and the Rules made thereunder have failed to do so or have done business as benamidars or through benamies :

"Provided further that the assessment relating to the year 1994-95 shall be completed on or before 31st March 2000";

Provided also that any assessment, other than an assessment falling under sub-section (4) or sub-section (4A), shall be completed within four months from the last date of checking of the books of accounts for the purpose of assessment for the year or within six months from such date with the permission of the next higher authority:

Provided also that assessments in respect of which accounts are checked prior to the 1st day of April, 1998 shall be completed on or before the 31st day of March, 1999";

(7) Notwithstanding anything contained in sub-section (6), in cases where any investigation or inquiry is pending under this Act or any other law or where any assessment cannot be completed within the period specified under the said sub-section, the Deputy Commissioner may, for good and sufficient reasons, extend the period of completion of the assessment beyond the period specified in that sub-section .

(8) Any assessment or re-assessment in pursuance of an order of an appellate or revisional authority shall be completed within a period of four years from the expiry of the year in which the order was received :

Provided that all such assessment or re-assessments pending as on the first day of April, 1993 shall be completed on or before the 31st day of March, 1999.

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(9) In computing the period for the completion of an assessment under this section the time during which the proceedings for assessment remained stayed under the orders of a court or other competent authority shall be excluded.

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18. *Assessment in certain cases treated as completed.*— (1) Notwithstanding anything contained in section 17, the assessment for the period upto the 31st day of March, 1996 in respect of any registered dealer, who falls under any of the categories mentioned in sub-section (4) of the said section as it stood on the 31st day of March, 1996 and who has filed returns and paid tax in accordance thereof, pending on the 1st day of April, 1998 shall, subject to the provisions of sub-section (2), be treated as completed.

(2) Notwithstanding anything contained in sub-section (1), where the Board of Revenue or, as the case may be, the commissioner appointed under the Kerala Board of Revenue (Abolition) Act, 1996 (14 of 1997) or the Deputy Commissioner is satisfied on information or otherwise that a registered dealer—

(a) has concealed any sale of purchase; or

(b) has furnished incorrect statement of his turnover or incorrect particulars of his sales,

in the return submitted under section 17 or otherwise, relating to an assessment made under sub-section (1), which has resulted in reduction of the amount of tax payable by him under this Act in respect of any of the periods, the Board of Revenue or, as the case may be, the Commissioner appointed under the Kerala Board of Revenue (Abolition) Act, 1996 (14 of 1997) or the Deputy Commissioner shall, within five years from the 1st day of April, 1998, direct the assessing authority to reopen the assessment for such period after giving such dealer a reasonable opportunity of being heard and to make fresh assessments following the procedure under sub-section (3) or section 17 for such period to the best of it or his judgment and the time limit prescribed under section 19 shall not apply to such fresh assessment.

(3) Where on reopening of an assessment under sub-section (2), it is found that the amount of tax, if any, paid by a dealer is less than the amount of tax, which he is liable to pay on such fresh assessment, the assessing authority shall direct such dealer to pay the difference between the amount of tax already paid and that arrived at on such fresh assessment together with thrice the amount of such difference as penalty:

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Provided that no penalty shall be imposed under this sub-section on a registered dealer in respect of such period where such dealer voluntarily discovers omissions or errors or other facts resulting in short payment of tax due from him according to books of accounts and furnishes revised return together with proof of payment of the balance amount of tax and interest under sub-section (3) of section 23 which is found to be payable on or before 30th June, 1998.

40. *Appeal to the High Court.*— (1) Any person objecting to an order affecting him passed by the Board of Revenue under section 37 may, within a period of ninety days from the date on which a copy of the order was served on him in the manner prescribed, appeal against such order to the High Court :

Provided that the High Court may admit an appeal preferred after the period of ninety days aforesaid if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

(2) The appeal shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of two hundred and fifty rupees.

(3) In disposing of an appeal, the High Court may, after giving the parties a reasonable opportunity of being heard either in person or by a representative,

(a) in the case of an order of assessment or penalty.—

(i) confirm, reduce, enhance or annul the assessment or penalty or both;

(ii) set aside the assessment and direct that a fresh assessment may be made after such further enquiry as may be directed; or

(iii) pass such other orders as it may think fit; or

(b) in the case of any other order, confirm, cancel or vary such order.

(4) Where as a result of the appeal any change becomes necessary in the order appealed against, the High Court may authorise the Board of Revenue to amend such order accordingly and, on such amendment being made, any amount over paid by the appellant shall be refunded to him or the further amount of tax, if any, due from him, shall be collected in accordance with the provisions of this Act, as the case may be.

(5) Every order passed in appeal under this section shall be final.

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(6) Notwithstanding that an appeal has been preferred under subsection (1), the tax shall be paid in accordance with the order of assessment against which the appeal has been preferred :

Provided that the High Court may, in its discretion, give such directions as it thinks fit in regard to the payment of the tax before the disposal of the appeal, if the appellant furnishes sufficient security to its satisfaction in such form and such manner as may be prescribed.

(7)(a) The High Court may, on the application of the appellant or the Board of Revenue review any order passed by it under sub-section (3) on the basis of the discovery of new and important facts which after the exercise of due diligence were not within the knowledge of the appellant or the Board of Revenue or could not be produced by him or it, when the order was made.

(b) The application for review shall be preferred in the prescribed manner and within one year from the date on which a copy of the order to which the application relates was served on the applicant in the manner prescribed and shall, where it is preferred by any person other than the Board of Revenue, be accompanied by a fee of two hundred and fifty rupees.

(8) The cost of an appeal under sub-section (1) or of a review under sub-section (7) shall be in the discretion of the High Court.

42. *Appeals petitions and applications to the High Court to be heard by a Bench of not less than two judges.*— Every appeal preferred to the High Court under section 40, every petition under section 41 and every application under section 40 or section 41 shall be heard by a Bench of not less than two judges, and in respect of such appeal, petition or application, the provisions of section 98 of the Code of Civil Procedure, 1908 (Central Act 5 of 1908) shall, so far as may be, apply.

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45 AA. *Penalty for default of payment of tax.*— (1) Where an assessee makes default in payment of tax or any other amount due under this Act within the time specified in the notice of demand, he shall, in addition to the tax or other amount in arrears and the amount of interest payable under sub-section (3) of section 23, be liable to pay, by way of penalty such amount and in the case of a continuing default, amount at such rate for every day during which the default continues, as the assessing authority may direct, so, however, that the total amount of penalty shall not exceed the amount of tax or other amount in arrears.

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(2) No penalty under sub-section (1) shall be imposed without giving the assessee a reasonable opportunity of being heard.

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59A. *Power of Government to determine rate of tax.*— If any question arises as to the rate of tax leviable under this Act on the sale or purchase of any goods, such question shall be referred to the Government for decision and the decision of the Government thereon shall, notwithstanding any other provision in this Act, be final.

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FIRST SCHEDULE

Goods in respect of which Single Point tax is leviable under sub-section (1) or sub-section (2) of section 5.

Sl No.	*Description of Goods*	*Point of levy*	*Rate of Tax per cent*
(1)	*(2)*	*(3)*	*(4)*
**	** ** ** **	** ** ** **	**
13.	Batteries other than dry cells	At the point of first sale in the State by a dealer who is liable to tax under section 5.	12
**	** ** ** **	** ** ** **	**
25.	Cashew kernel	At the point of first sale in the State by a dealer who is liable to tax under section 5.	8
	Explanation.— Where a tax is levied on cashew kernel, the tax, if any, paid on raw cashew nut out of which the cashew kernel is produced shall be deducted.		
**	** ** ** **	** ** ** **	**

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27.	Cement including white cement	At the point of first sale in the State by a dealer who is liable to tax under section 5.	12
**	** ** ** ** ** ** ** **		
31.	Chemically treated rubberwood	At the point of first sale in the State by a dealer who is liable to tax under section 5.	8
**	** ** ** ** ** ** ** **		
37.	Cloves, Nutmeg and Mace (a) Purchase within the State	At the point of first sale in the State by a dealer who is liable to tax under section 5.	8
	(b) Brought from outside the State	At the point of first sale in the state by a dealer who is liable to tax under section 5.	8
**	** ** ** ** ** ** ** **		
54.	Electrical goods (other than specifically mentioned in this Schedule) instruments, apparatus, appliances, grinders, cooking ranges, hot plates, water heaters and other domestic electric appliances and apparatus including fan and lighting bulbs electrical earthenware, porcelain and all other accessories and component parts, either sold as a whole or in parts.	At the point of first sale in the State by a dealer who is liable to tax under section 5.	8
**	** ** ** ** ** ** ** **		

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78.	Kacholam		
	(a) Purchased within the State	At the point of last purchase in the State by a dealer who is liable to tax under section 5.	8
	(b) brought from outside the State	At the point of first sale in the State by a dealer who is liable to tax under section 5.	8
**	** ** ** ** ** ** ** **		
83.	Locks of all kinds and varieties	At the point of first sale in the State by a dealer who is liable to tax under section 5.	12
**	** ** ** ** ** ** ** **		
103.	Paints, colours, laquers, varnishes pigments, polishes, indigo, dyes, enamel, putty, bale oil, turpentine oil, wood preservation oil, primers, thinners and paint brushes.	At the point of first sale in the state by a dealer who is liable to tax under section 5.	12
**	** ** ** ** ** ** ** **		
135.	Spare parts and motor vehicle and motor vessels including those relating to tractors, bulldozers, power tiller cranes and other earth moving machinery and bearing with bore diameter below 5 Centimeters.	At the point of first sale in the State by a dealer who is liable to tax under section 5.	8
**	** ** ** ** ** ** ** **		
150.	Tea including green tea leaves and manufactured tea.	At the point of first sale in the State by a dealer who is liable to tax under section 5.	8

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	Explanation: Where a tax has been levied in respect of manufactured tea, the tax, if any, levied and collected in respect of green tea leaves from which such manufactured tea is produced shall be refunded.		
**	**	**	**
157.	Tractors, Power tillers, bulldozers, pick and carry cranes, truck mounted articulated cranes, excavators and other earth moving machinery	At the point of first sale in the State by a dealer liable to tax under section 5.	4
**	**	**	**
159.	Turmeric	At the point of first sale in the State by a dealer liable to tax under section 5.	8
**	**	**	**

THIRD SCHEDULE

Goods exempted from tax under section 9

**	**	**	**
38.	Meat		
**	**	**	**

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FIFTH SCHEDULE

Goods in respect of which tax is leviable on two points under sub-section (1) or sub-section (2) of section 5.

Sl No.	*Description of Goods*	*1st point of levy*	*Rate of tax (per cent)*	*2nd point of levy*	*Rate of tax (per cent)*	*Where there are no two points of sale in the State*	*Rate of tax (per cent)*
(1)	*(2)*	*(3)*	*(4)*	*(5)*	*(6)*	*(7)*	*(8)*
**	**	**	**	**	**	**	**
3.	Microwave oven and spare parts thereof	At the point of I[st] sale in the State by a dealer who is liable to tax under section 5 to a registered dealer for sale	10	At the point of last sale in the State by a dealer who is liable to tax under section 5	2	At the point of 1[st] sale in the State by a dealer who is liable to tax under section 5 to a person other than a registered dealer other than for sale	12
6.	Refrigerators, water coolers, air conditioned plants air coolers, room coolers, machine components and spare parts thereof	do.	10	do.	2	do.	12
7.	Washing Machines, dish washers and their components and spare parts thereof	do.	10	do.	2	do.	12
**	**	**	**	**	**	**	**
10.	Vacuum Cleaner	do.	10	do.	2	do.	12
**	**	**	**	**	**	**	**

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EXTRACT FROM THE KERALA TAX ON LUXURIES ACT, 1976

(Act 32 of 1976)

** ** ** ** ** ** ** **

2. *Definitions.*— ** ** ** **

** ** ** ** ** ** ** **

8. *Revision.*—(1) The Board of Revenue may, either suo motu or on application, call for and examine the record and proceedings of any order made by the assessing authority and pass such order thereon as it thinks just and proper:

Provided that no application under this sub-section shall be entertained if it is not made within a period of ninety days from the date on which the order in question was received by the applicant :

Provided further that before rejecting any application under this sub-section the Board of Revenue shall record reasons for such rejection.

(2) No order shall be passed under sub-section (1) which is likely to affect any person adversely, unless such person has been given a reasonable opportunity of being heard.

(3) Where a person could have appealed under section 7 and no appeal has been filed by him, no proceedings under this section shall be entertained upon the application of such person.

(4) An application for revision under sub-section (1) shall be in such manner and in such form, as may be prescribed, and shall be accompanied by a fee of rupees two hundred and fifty, which shall, in no case, be refunded.

** ** ** ** ** ** ** ** **

EXTRACT FROM THE KERALA AGRICULTURAL INCOME TAX ACT, 1991

(Act 15 of 1991)

** ** ** ** ** **

2. *Definitions.*— ** ** ** **

** ** ** ** ** **

3. *Charge of Agricultural Income Tax.*— (1) Tax at the rates specified in the Schedule to this Act shall be charged for each assessment

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year in accordance with and subject to the provisions of this Act, on the total agricultural income of the previous year of every person :

Provided that no tax is payable by any person other than a company or a firm where the total extent of landed properties, the agricultural income from which is assessable at his hands under the provisions of this Act do not exceed three hectares.

** ** ** ** ** **

9. *Rebate and Deduction allowed.*— (1) **

** ** ** ** ** **

(3) In computing the total agricultural income of a person there shall be deducted from his agricultural income any sum not exceeding 20 per cent of the total agricultural income of such assessee deposited by him in the previous year out of his agricultural income in the Fund established under the Investment Deposit Scheme intended to rejuvenate and modernise plantations notified by the Government in this behalf subject to the conditions that,

(i) the replantation or infilling allowance admissible for the year and subsequent years under the rules shall be set off against such amount deposited under the scheme until it is fully so set off,

(ii) withdrawals from the deposit shall for investment in landed property in accordance with the scheme in this behalf, and

(iii) if any withdrawals from the deposit is not utilised for the purpose for which it is sanctioned it shall be treated as agricultural income of the year of the withdrawal and assessed accordingly.

** ** **

13. *Composition of Agricultural Income Tax.*— (1) Notwithstanding anything contained in this Act, any person who holds landed property within the State extending to not more than five hundred hectares of land used for agricultural purposes and deriving agricultural income may apply to the Agricultural Income Tax Officer for permission to compound the agricultural income tax payable by him and to pay in lieu thereof a lamp sum at the rates specified in the Table hereinunder on the planted area:—

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"TABLE

COMPOUNDING RATE OF TAX

Name of Crops	*First three hectares*	*On the next five hectares Rate per Hectare*	*On the next five hectares (above 8 Hectares but not exceeding 13 hectares) Rate per Hectare*	*On the next five hectares (above 13 Hectares but not exceeding 18 hectares) Rate per Hectare*	*On the remaining extent (Upto 500 Hectares) Rate per Hectare*
(1)	*(2)*	*(3)*	*(4)*	*(5)*	*(6)*
		Rs.	Rs.	Rs.	Rs.
Cardamom 'C' Zone Cashew, Clove, Cinchona Nutmeg, Cinnamon and other crops not specifically included in this table (other than Tea & Coffee)	Nil	300	450	800	1400
Peper	Nil	400	600	1000	1750
Coconut, Cocoa & Rubber	Nil	500	1000	1700	2500
Cardamom 'B' Zone	Nil	550	1000	2000	2800
Cardamom 'A' Zone	Nil	750	1200	2700	3500
Arecanut	Nil	750	1200	2700	3500
Tea	Nil	350	500	900	1500
Coffee	Nil	700	1000	1800	3000";

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(c) for the explanation the following explanation shall be substituted namely :—

** ** ** ** ** **

39. *Assessment of Agricultural Income.*— (1) If the Agricultural Income Tax Officer is satisfied that a return furnished under section 35 by an assessee is correct and complete, he shall by order in writing, make an assessment and determine the sum payable by the assessee on the basis of such return.

(2) If the Agricultural Income Tax Officer considers it necessary or expedient to verify the correctness and completeness of the return by requiring the presence of the assessee or the production of evidence in this behalf, he shall serve on the assessee a notice requiring him, on a date to be specified therein either to attend the office of the Agricultural Income Tax Officer or to produce or to cause to be produced, any evidence the assessee may rely in support of the return.

(3) On the day specified in the notice issued under sub-section (2) or as soon as may be, the Agricultural Income Tax Officer, after considering the evidence as the assessee may produce and such other evidence as the agricultural Income Tax Officer may require on specified points, and after taking into account all relevant information which he has gathered, shall, by an order in writing make an assessment of the assessee, and determine the sum payable by him or refundable to him on the basis of such assessment.

(4) If any person fails to furnish the return as required by section 35 or fails to comply with the notice issued under sub-section (4) of section 35 or having furnished a return fails to comply with all the terms of a notice issued under sub-section (2), the Agricultural Income Tax Officer after taking into account all relevant information which the Agricultural Income Tax Officer has gathered, shall make the assessment to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment.

(5) No assessment under this section other than an assessment under sub-section (1) shall be made without giving the assessee a reasonable opportunity of being heard.

(6) Any assessment other than those pending on the date of commencement of this Act shall be completed within a period of two years from the date of filing of the returns :

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Provided that in the case of assessment of agricultural income derived from manufactured tea, if the assessment under the Income Tax Act, 1961 (Central Act 43 of 1961), is not completed when the Agricultural Income Tax Officer proceeds to complete the assessment, he may provisionally accept the agricultural income as per the return filed by him and revise such assessment in accordance with the order of the Income Tax Authority and the limitation fixed under any of the provisions of this Act shall not apply to such revision of assessment: manufactured tea, fails to submit copy of the assessment order or appellate or revisional order under the Income Tax Act, 1961 (Central Act 43 of 1961), within thirty days of its receipt by him, he shall be liable to pay interest as provided under sub-section (4) and penalty as provided under sub-section (5) of section 37 on the balance of tax payable in accordance with the order of the Income Tax Authority on the expiry of ninety days from the date on which he received such order.

** ** ** ** ** **

78. *Revision by the High Court.*— (1) (a) Any officer empowered by the Government in this behalf or any other person who objects to an order passed by the Appellate Tribunal under sub-section (7) or sub-section (10) of section 74 or under section 79, may within ninety days from the date on which a copy of such order is served on him in the manner prescribed prefer a petition to the High Court on the ground that the Appellate Tribunal has either decided erroneously or failed to decide any question of law.

(b) Any person who objects to an order passed by the commissioner under section 76, 77 or 79 may, within ninety days from the date on which a copy of such order is communicated to him prefer a petition to the High Court on the ground that the Commissioner has either erroneously decided or failed to decide any question of law:

Provided that the High Court may admit a petition preferred after the period of ninety days referred to in clauses (a) and (b) if it is satisfied that the petitioner had sufficient cause for not preferring the petition within the said period.

(2) The petition shall be in the prescribed form and shall be verified in the prescribed manner, and where it is preferred by a person other than an officer empowered by the Government under sub-section (1), shall be accompanied by a fee of one hundred rupees.

(3) If the High Court, on perusing the petition, considers that there is no sufficient ground for interfering may dismiss the petition summarily:

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Provided that no petition shall be dismissed unless the petitioner has had a reasonable opportunity of being heard.

(4) (a) If the High Court does not dismiss the petition summarily, it shall, after giving both the parties to the petition a reasonable opportunity of being heard, determine the question of law raised and either reverse, affirm or amend the order against which the petition was preferred or remit the matter to the Appellate Tribunal with the opinion of High Court on the question of law raised or pass such order in relation to the matter as the High Court thinks fit.

(b) Where the High Court remits the matter under clause (a) with its opinion on the question of law raised the Appellate Tribunal shall amend the order passed in conformity with such opinion.

(5) Before passing an order under sub-section (4), the High Court may, if it considers it necessary so to do, remit the petition to the Appellate Tribunal and direct to return the petition with a finding on any specific question or issue.

(6) Notwithstanding that a petition has been preferred under sub-section (1), the tax shall be paid in accordance with the order against which the revision has been preferred:

Provided that the High Court may in its discretion give such direction as it thinks fit in regard to the payment of the tax before the disposal of the petition if the petitioner furnishes sufficient security to its satisfaction in such form and in such manner as may be prescribed.

(7) If as result of the revision any change becomes necessary in any assessment or penalty, the High Court may direct the agricultural income-tax authority to amend the assessment or penalty order accordingly and on such amendment being made, any amount over paid by any person shall be refunded to him, or the further amount of tax or penalty due from him shall be collected in accordance with the provisions of this Act, as the case may be.

(8) The cost of a revision under sub-section (1) shall be at the discretion of the High Court.

(9) Every revision preferred to the High Court under section 78 shall be heard by a bench of not less than two judges and in respect of such revision the provision of section 98 of the Code of Civil Procedure, 1908 (Central Act 5 of 1908) shall so far as may apply.

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EXTRACT FROM THE KERALA TAX ON ENTRY OF GOODS IN TO LOCAL AREAS ACT, 1994

(Act 15 of 1994)

** ** ** ** ** **

2. *Definitions.*— ** ** ** **

** ** ** ** ** **

9. *Reassessment.*— If after a person liable to pay tax has been assessed under section 8 for any period, the assessing authority has reason to believe that any purchase value or part thereof has, in respect of that period, escaped assessment or has been under assessed or assessed at a lower rate, then the assessing authority may, within five years form date of the order of assessment of the particular period and after giving the person a reasonable opportunity of being heard, reassess the tax due from him.

** ** ** ** ** **

13. *Appeals.*— ** ** ** **

** ** ** ** ** **

(3) No Appeal shall be entertained by the appellate authority or the Deputy Commissioner of Sales Tax unless it is filed within thirty days from the date of receipt of the order appealed against by the assessee, and unless the entire amount of tax and penalty, if any, has been remitted by the assessee in the Government Treasury.

** ** ** ** ** **

14.*Revision.*— (1) The Board of Revenue may, suo-motu or on an application made in that behalf by assessee, call for and examine the records of the proceedings or any order made by the assessing authority or, as the case may be, the appellate authority or the Deputy Commissioner of Sales Tax and pass such orders as it thinks just and proper.

(2) No application under sub-section (1) shall be entertained, if it is not made within a period of three months from the date of receipt of the order of the assessing authority or the appellate authority or the Deputy Commissioner of Sales Tax, as the case may be.

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(3) No order which adversely affects any person shall be passed under this section, unless such person has been given a reasonable opportunity of being heard.

(4) Where an appeal lies under section 13 and no appeal is made or where an appeal is pending before the appellate authority or Deputy Commissioner of Sales Tax, no revision shall be entertained upon an application under sub-section (1).

(5) Where the Board of Revenue rejects any application for revision under this section, it shall record the reasons for such rejection.

** ** ** ** ** **

THE SCHEDULE

[Section 2 (ee)]

Goods on which tax is leviable under section 3.

** ** ** ** ** **

20. Invertor

21. Other machinery

** ** ** ** ** **

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